

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
SOUTH BEND DIVISION

IN THE MATTER OF:  
MICHAEL ROY SHERBURNE  
NICKIE MAE SHERBURNE  
Debtors

CASE NUMBER: 18-31168

CHAPTER 13

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TRUSTEE'S MOTION TO DISMISS

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COMES NOW, Debra L. Miller, Trustee, and for her Motion to Dismiss states as follows:


1. This case was filed on June 26, 2018 and Confirmed on September 28, 2018.
2. Pursuant to the terms of an Agreed Order, approved on August 6, 2019, Plan payments were brought current through July 2019, and increased to \$1,520.00 beginning August 2019.
3. Debtors are paying direct using the TFS service but payments are \$1,538.62 delinquent, with the next payment due November 26, 2020, and the Plan has become underfunded.
4. Trustee was notified in June 2020 that the Debtors were in an accident with their 2007 Trailblazer, being paid through the Plan.
5. Trustee has requested, but not yet received, information on the Debtors' insurance claim regarding this vehicle.
6. Failure to make complete Plan payments each month is a material default on the terms of the Confirmed Plan, pursuant to 11 U.S.C. §1307(c)(6) and failure to provide requested information has caused an unreasonable delay that may be prejudicial to Creditors, pursuant to 11 U.S.C. §1307(c)(1).

18-31168 Sherburne  
Motion to Dismiss

WHEREFORE, the Trustee moves, for the reasons stated above, that the bankruptcy be dismissed pursuant to 11 U.S.C. §1307(c)(6), 11 U.S.C. §1307(c)(1), and any other statute the Court deems appropriate.

Dated: October 29, 2020

Respectfully Submitted,

  
/s/ Debra L. Miller, Trustee  
Debra L. Miller, Trustee  
PO Box 11550  
South Bend, IN 46634  
(574) 254-1313

#### CERTIFICATE OF SERVICE

I hereby certify that a copy of this motion was served as follows on October 29, 2020

By U.S. Mail postage prepaid:

Debtors: Michael and Nickie Sherburne, 2045 East Riverside Drive, Warsaw, IN 46582

By electronic mail via CM/ECF:

Debtors' Attorney: Steven Glaser

U.S. Trustee at [ustregion10.so.efc@usdoj.gov](mailto:ustregion10.so.efc@usdoj.gov)

/s/ Debra L. Miller